***THE HON'BLE Ms. JUSTICE G. ROHINI**

+ WRIT PETITION NO.22643 OF 2006

% 2/11/2006

Saini Lakshmi & another. .. Petitioners

Vs.

$ Bolliepalli Janardhan @ Janardhan Chary;
And others. .. Respondents

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> Head Note:

! Counsel for the petitioners : Sri M.Srinivasa Rao

^ Counsel for the respondents : Govt. Pleader for Social Welfare

Cases referred :

[1] 1996 (4) ALT 15 (D.B.)

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22643 OF 2006

DATED: 2ND NOVEMBER, 2006.

Between :

Saini Lakshmi & another. .. Petitioners

And

Bolliepalli Janardhan @ Janardhan Chary;
And others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22643 OF 2006

ORDER :

This writ petition is filed seeking a Writ of Prohibition contending that the entertainment of I.A.No.2602 of 2006 in O.S.No.932 of 2006 by the Court of the Principal Junior Civil Judge, Bhadrachalam, Khammam District is without jurisdiction.

The petitioners herein claim title and possession in respect of the land situated in Sy.No.523 of Manuguru Village and Mandal of Khammam District, which is declared as an Agency Area.

On a complaint made by the 3rd respondent herein, eviction proceedings were initiated against the petitioners under the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation 1 of 1959) and after due enquiry the Special Deputy Collector, Bhadrachalam passed an order dated 17-10-2005 directing ejectment of the petitioners herein. It was further ordered that the land in question shall be taken into Government custody and shall be assigned to the eligible tribals. Aggrieved by the same, the petitioners as well as the 3rd respondent herein preferred appeals before the Additional Agent to the Government and Project Officer, I.T.D.A. Pending the said appeals, the 3rd respondent herein filed

W.P.No.14114 of 2006 alleging that the Appellate Authority did not grant stay of operation of the order of ejectment. This Court disposed of the said writ petition with a direction to maintain Status Quo with regard to the nature and possession of the property in question till the disposal of the appeal pending on the file of the Additional Agent to the Government and Project Officer, ITDA, Bhadrachalam.

While so, the 3rd respondent herein filed O.S.No.932 of 2006 on the file of the Court of the Principal Junior Civil Judge, Kothagudem, Khammam District seeking an injunction restraining the petitioners herein from interfering with the possession and enjoyment of the very same property which is the subject-matter of Appeals pending before the Additional Agent to the Government. Having entertained the said suit, the learned Principal Junior Civil Judge, Kothagudem, by order, dated 27-10-2006 granted an order of temporary injunction in I.A.No.2602 of 2006.

Aggrieved by the same, this writ petition is filed contending that since the land in question is situated in Agency Area, the Court of Principal Junior Civil Judge, Kothagudem has no jurisdiction, but the Agency Courts constituted under the Andhra Pradesh Agency Rules, 1924 alone have jurisdiction to entertain and try the suit.

The learned Counsel for the petitioners while placing reliance upon a decision of the Division Bench of this Court in T. ANANTHACHARYULU vs. PRL. SUBORDINATE JUDGE[1] contended that the Civil Court at Kothagudem shall be restrained from proceeding with O.S.No.932 of 2006 by issuing a Writ of Prohibition.

There can be no dispute about the well-settled legal principle that where the facts in a give case clearly establish that the Court lacks total jurisdiction, this Court would not hesitate to issue a Writ of Prohibition in exercise of jurisdiction under Article 226 of the Constitution of India.

However, in the case on hand, though there is no dispute that the suit schedule land is situated in an Agency Area, admittedly the

petitioners as well as the 3rd respondent herein who are parties to O.S.No.932 of 2006 are non-tribals. A clear finding was recorded to that effect by the Special Deputy Collector (Tribal Welfare), Bhadrachalam in the order of ejectment dated 17-10-2005 passed under Section 3 (2) of Regulation 1 of 1959. The learned Counsel for the petitioners could not point out any provision from A.P. Agency Rules, 1924 which excludes the jurisdiction of Civil Courts so far as the dispute between the non-tribals are concerned notwithstanding the fact that the suit schedule land is situated in an agency area.

A Division Bench of this Court in C.M.A.No.360 of 1976 and batch, dated 8-2-1978 { 1978 (1) ALT 56 (Notes on Recent Cases) } having considered an identical issue arising under the provisions of the A.P. Agency Rules, 1924 held that there is nothing in Rule 3 of A.P. Agency Rules from which it could be inferred that the jurisdiction of the ordinary Civil Court to entertain suits of civil nature between non-tribals is barred either expressly or by necessary implication. In the said decision, the Division Bench was also dealing with a case where the dispute was between non-tribals in respect of the land situated in a scheduled area and having considered all the relevant statutory provisions it was held that the Civil Courts have jurisdiction to entertain the suits between non-tribals.

Having regard to the above legal position and in the facts and circumstances of the instant case as reflected from the material available on record, it cannot be concluded at this stage that the Court of Principal Junior Civil Judge, Kothagudem lacks total jurisdiction to entertain O.S.No.932 of 2006 preferred by the 3rd respondent herein. In the circumstances, I am not inclined to issue a Writ of Prohibition as prayed for.

Accordingly, the Writ Petition is dismissed. However, this shall not preclude the petitioners to take appropriate steps before the Court

of Principal Junior Civil Judge, Kothagudem to contest the suit proceedings on the ground that the Court lacks jurisdiction, in which event the same shall be considered and decided in accordance with law uninfluenced by any of the observations made in this order. No order as to costs.

G. ROHINI, J.

Dt. 2-11-2006
gbs
Note: LR copy to be marked.

[1] 1996 (4) ALT 15 (D.B.)